

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TREAUNA L. TURNER,

Plaintiff,

v.

PALLARES, *et al.*,

Defendants.

Case No. 1:21-cv-01721-JLT-BAM (PC)

ORDER GRANTING DEFENDANTS'
MOTION TO STRIKE PLAINTIFF'S
UNAUTHORIZED SUR-REPLY

(ECF No. 51)

Plaintiff Treauna L. Turner ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint against Defendants Showalter and Mitchell for deliberate indifference to medical care in violation of the Eighth Amendment and against Defendants Showalter, Mitchell, and Freeman for negligence (medical malpractice).

On March 14, 2023, Defendants Showalter and Mitchell filed a motion to dismiss Plaintiff's state law claims for failure to comply with the Government Claims Act. (ECF No. 30.) Plaintiff filed an opposition, which was accepted as timely, on April 17, 2023. (ECF No. 37.) Following an extension of time, Defendants Showalter and Mitchell filed a reply on May 16, 2023. (ECF No. 46.) The motion is fully briefed.

On May 24, 2023, Plaintiff filed a motion for a ninety-day extension of time to object to Defendants' reply in support of their motion to dismiss. (ECF No. 48.) The Court construed the

1 motion as a request for extension of time to file a surreply to Defendants' reply brief, and denied
2 the request. (ECF No. 49.)

3 Nevertheless, on June 1, 2023, Plaintiff filed an objection to Defendants' reply in support
4 of the motion to dismiss. (ECF No. 50.) Construing the filing as a surreply, on June 5, 2023,
5 Defendants filed a motion to strike the unauthorized surreply. (ECF No. 51.) While Plaintiff has
6 not yet had an opportunity to file a response to Defendants' motion, the Court finds a response
7 unnecessary. The motion is deemed submitted. Local Rule 230(l).

8 As Plaintiff was previously informed, neither the Federal Rules of Civil Procedure nor the
9 Local Rules contemplate the filing of a surreply. *See* Local Rule 230(l). No further briefing on
10 Defendants' motion to dismiss is permitted absent leave of Court. The Court did not grant
11 Plaintiff leave to file a surreply or Plaintiff's request for extension of time to file a surreply, and
12 the Court does not desire any further briefing on the motion. In an abundance of caution, the
13 Court briefly reviewed the filing, and does not find that it raises any new arguments that could not
14 have been raised in Plaintiff's original brief in opposition to the motion to dismiss.

15 Accordingly, Plaintiff's surreply, (ECF No. 50), is HEREBY STRICKEN from the record
16 and Defendants' motion to dismiss will be addressed in due course.

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18 IT IS SO ORDERED.

19 Dated: June 6, 2023

/s/ Barbara A. McAuliffe
20 UNITED STATES MAGISTRATE JUDGE
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